

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Sammy Jackson,

Court File No.: 15-CV-_____

Plaintiff,

v.

NOTICE OF REMOVAL

First Premier Bank,

Defendant.

PLEASE TAKE NOTICE that under 28 U.S.C. §§ 1331, 1441 and 1446, Defendant First PREMIER Bank ("Defendant") hereby removes to this Court the state-court action described in Paragraph 1 below by the filing of this Notice of Removal with the Clerk of the United States District Court for the District of Minnesota. Defendant appearing solely for the purpose of this Notice of Removal, and without waiving any of its jurisdictional objections,¹ respectfully states the following grounds for removal:

THE STATE COURT ACTION

1. The removed case is a civil action served upon Defendant but not then filed in the Fourth Judicial District Court of Hennepin County, Minnesota and entitled Sammy Jackson v. First Premier Bank. ("State Court Action"). A copy of the Summons and Complaint is attached hereto as Exhibit A.

¹ Plaintiff's claims are subject to an arbitration agreement contained in the contract between Plaintiff and Defendant, and Defendant intends to move to compel arbitration pursuant to that agreement. By removing the Action to this Court, Defendant reserves all rights with respect to its right to compel arbitration and other jurisdictional objections applicable to this Action.

2. Defendant was served with the Summons and Complaint on January 7, 2015.

3. Plaintiff consented to a 21-day extension of time to answer the Complaint. To date, Defendant has not served an answer or otherwise responded to Plaintiff's Complaint in the State Court Action.

GROUND FOR REMOVAL – FEDERAL QUESTION JURISDICTION

4. Plaintiff's complaint alleges claims for violation of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 et seq.

5. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 because Plaintiff's claims arise under the "laws . . . of the United States," namely, 47 U.S.C. § 227 et seq. *Mims v. Arrow Financial Services, LLC*, 132 S. Ct. 740 (2012).

PROCEDURAL REQUIREMENTS FOR REMOVAL

6. Pursuant to 28 U.S.C. § 1441(a) and 1446, this Notice of Removal is being filed in the United States District Court for the District of Minnesota, which is the federal district court embracing the court where the State Court Action was commenced.

7. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely because it is filed within 30 days of January 7, 2014 – the date on which the Summons and Complaint in the State Court Action was received by Defendant. Defendant is the only defendant named in the Summons and Complaint in the State Court Action.

8. Copies of all process, pleadings, orders, and other documents served upon Defendant in the State Court Action are attached to this Notice of Removal as **Exhibit A**.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal with its attachments will be promptly served on Plaintiff and notice thereof will be filed with the Court Administrator for Hennepin County District Court. A true and correct copy of the Notice of Filing of Notice of Removal, without attachment, is attached hereto as

Exhibit B.

10. This Notice of Removal is signed by counsel for Defendant pursuant to Federal Rule of Civil Procedure 11.

11. Pursuant to the foregoing, this Court has jurisdiction over this matter, subject to Defendant's right to move the Court to compel arbitration and other jurisdictional defenses.

12. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of any right to assert any defense or affirmative matter, and Defendant expressly reserves its right to raise all defenses and objections to Plaintiff's claims after the State Court Action is removed to this Court, without limitation, the defenses of (1) lack of personal jurisdiction, (2) improper venue, (3) insufficiency of process, (4) insufficiency of service of process, (5) improper joinder of claims and/or parties, (6) failure to state a claim, (7) failure to join an indispensable party(ies), (8) right to compel arbitration; or (8) any other procedural or substantive defense available under state or federal law.


13. Defendant requests the opportunity to submit any such additional argument or evidence in support of removal as may be necessary if Plaintiff seeks to remand this matter.

14. Accompanying this Notice of Removal are a Civil Cover Sheet and a payment in the amount of \$400.00 for the required filing fee.

WHEREFORE, Defendant First PREMIER Bank hereby removes the State Court Action to the United States District Court for the District of Minnesota and respectfully requests that this action proceed in this Court.

Dated: February 5, 2015

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